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NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

Conservatorship of the Person of MICHAEL M.	
SAN MATEO COUNTY PUBLIC GUARDIAN, Petitioner and Respondent, v. MICHAEL M., Objector and Appellant.	A146256 (San Mateo County Super. Ct. No. 105988)

Appellant Michael M. appeals from the order of the San Mateo Superior Court appointing the San Mateo County Public Guardian as conservator and imposing special disabilities on him pursuant to the Lanterman-Petris-Short Act (Welf. & Inst. Code, § 5350 et seq.).[1] This appeal is authorized by section 5350 and Probate Code section 1301.

Appointed counsel has filed a brief narrating the facts pertinent to the legal issues and asking this court to conduct an independent review of the record pursuant to *Conservatorship of Ben C.* (2007) 40 Cal.4th 529. Counsel has also informed appellant of his right to file a supplemental brief with this court in which he may bring to the court's attention any issues he believes warrant review. Appellant has not done so.

[1] All statutory references are to the Welfare and Institutions Code unless otherwise indicated.

FACTS AND PROCEEDINGS BELOW

On May 27, 2015 (all dates are in that year), county counsel filed a petition alleging appellant was gravely disabled within the meaning of section 5008, subdivision (h), and asking the court to impose a temporary conservatorship over appellant. The court did so the same day. The temporary conservator was directed to provide appellant food, shelter, care, and, if necessary, require that appellant be detained pursuant to section 5358 in a facility providing intensive treatment pending establishment of a full conservatorship.

On June 4, county counsel asked the court to determine appellant was not competent to make routine medical decisions and decisions regarding treatment of his grave disability. The next day the temporary conservator petitioned to establish a full conservatorship. On August 20, after an evidentiary hearing, the court granted the petition imposing on appellant various disabilities listed in section 5357, including that he not retain (1) the privilege of possessing a license to operate a motor vehicle, (2) the right to enter into contracts, (3) the right to refuse to consent to treatment specifically related to his being gravely disabled, and (4) the right to possess a firearm and/or any other deadly weapon.

Since June 3, appellant has been held in the acute psychiatric unit of the San Mateo Medical Center.

The only witnesses at the August 20 hearing were appellant and Dr. Lyn Mangiameli, a psychologist, who testified for the county.

Dr. Mangiameli testified that appellant had been diagnosed with schizophrenia, chronic paranoid type, with indications he may also suffer a schizoaffective disorder, as well as a posttraumatic stress disorder. Appellant exhibits paranoia, depression and anxiety. He is "internally stimulated" by "things going on in his head that result in laughter, talking to himself," but "intermittently . . . he engages in violent activity, verbal and physical violence. The physical violence is most commonly against objects, like striking a wall." There have been occasions, however, in which he "grabbed the collar of a security officer in such a way that it looked like he was wishing to enter into a fight

with that person," and has thrown a "liter-filled bottle of soda at a security officer." Appellant has also "engaged in really violent, verbally violent, menacing-like comments, both of a racial, and just generally derogatory nature, toward some staff."

Appellant has been in one level or another of mental care consistently since 1999. There have been multiple hospitalizations, six prior attempts to establish conservatorships with him, and he has been on conservatorships "several times." There have also been 10 admissions to the San Mateo Medical Center Psychiatric Unit, and according to Dr. Mangiameli, "each of those would have been accompanied by another episode of him being in our psychiatric emergency services before that." The only time appellant was able to be maintained in the community was a period in which he resided in an " 'industrial' motel" a housing facility providing individual rooms for people with psychiatric disabilities. Appellant was evicted from that residence due to "threatening behavior" to staff and also because appellant's violence caused "roughly 3 to $4,000 worth of damage" to his room.

Appellant is primarily treated with Invega, an anti-psychotic medication, Ativan, an anti-anxiety medication, and a medication that treats his hypothyroidism. He is compliant with the Ativan regimen, but not so with the other two medications, which Dr. Mangiameli thought probably was the reason he has recently shown greater agitation and paranoia. His failure to take his medications regularly is also believed to be a reason for his "threatening behavior to other staff," particularly a female staff member he threatened to kill, and an episode in which "he attempted to throw a table at a staff member, resulting in the table actually breaking."

Dr. Mangiameli acknowledged appellant does have insight regarding his anxiety, which he would like to treat, and believes that the medications he is receiving assist with that anxiety. "He also tried to engage in various other non-medication behaviors, like going to . . . a seclusion room, just as a quiet area to take time out from people, to be able to handle it."

Dr. Mangiameli and appellant discussed what appellant would do if he was not a conservatee. He indicated he had $700 in savings, together with disability benefits, and

would go to a community based shelter somewhere. If that wasn't available he would try to rent a room and get a job to support living independently. Dr. Mangiameli does not consider these plans feasible. She and others have sought placement of appellant in an outpatient program run by the San Mateo Mental Health System, but those who run the program do not believe he can safely be placed in any program that is not in a locked facility, which appellant does not want. Dr. Mangiameli holds out the hope it will eventually be possible for appellant to be placed in a community based facility, but does not consider it feasible at this time, because no program will now accept him due to his recent violent history.

Testifying in his own behalf, appellant stated that he receives $790 to $820 a month in social security disability income, and would like to live in a shelter or another facility run by Telacare, a mental health agency of which he is a client. Currently, his left arm is broken and not healing properly, and he needs an operation. The injury occurred when guards carried him into a room and he hit his arm on the edge of the door.

Appellant stated that when he is told to "take a time out" he always does, and sometimes does so by himself without being told, because this helps him avoid becoming violent or aggressive. When asked if he has a mental illness appellant answered "I do not know. They are the experts." He stated that he will continue to take the medications prescribed for him and denied he failed to do so. On cross-examination, appellant acknowledged problems with his mental state. He also stated that he hit the walls in his room with his right arm, not his left arm, "to defer violence towards others and put myself under my own reprimand." Asked why he needs to do that, appellant said "[b]ecause there is a lot of agitation in my life that goes on beyond these walls." Asked what these things are, appellant said "[d]ifferent things I would rather tell a doctor than a lawyer on their side." When county counsel would not let go of this line of inquiry, appellant stated that in the past when he went out on the street people would frequently "jump me" and "kick [my] ass" because "they don't like me." Appellant did not know why they jumped him, stating "I don't think about it. They are not part of what I want to be in my life, so I try not to think about it." Appellant stated that the jumpings "happen a

lot," about "four or five times a month." Asked when he was last "jumped," appellant said a "couple of years ago, unless I dodged a bullet the other day, who knows."

At the close of appellant's testimony the court stated that it found this "a close case, in many respects. I agree with [appellant's counsel] that [appellant] clearly has some insight into his mental condition, but it is limited insight. I found compelling that [appellant's] testimony matched Dr. Mangiameli's almost to the 'T' in many respects with regard to the level of insight, the level of disturbance, the level of imagining dangers that are not there, and those are, of course, very disturbing." The court then determined beyond a reasonable doubt that, in consideration of the totality of the circumstances, appellant would not be able "to take care of his own food, clothing and shelter at this time, given his history, which is unfortunate," and is therefore "gravely disabled." (§ 5008, subd. (h)(1)(a).)

After the court inquired of counsel whether there was evidence regarding the disabilities respondent wanted the court to impose on appellant, appellant asked that Dr. Mangiameli be subject to voir dire and she was.

Dr. Mangiameli testified that appellant should not have the right to enter into contracts due to "his difficulties in always understanding the nature of things around him and his tendency to misconstrue the intentions of others, particularly negative, would seriously undermine his ability to safely enter [contracts]" She stated that he should not have the right to possess a driver's license because he has "used other articles and objects to attempt violence on others," so that too "would be dangerous and inadvisable." Dr. Mangiameli felt appellant should not retain the right to refuse treatment for his grave disability "because he does not always understand the nature of the medications, of their effects, of the significance they may play in his recovery and management of his difficulties."

Asked whether appellant should retain the right to refuse "routine medical treatment," Dr. Mangiameli admitted "that is tough for me," but based on her view "that he can take information and understand it 180 degrees from what the actual effects are on

him, and so I believe that that suggests that, in other areas, of medical care . . . he should not have that ability at this time."

Finally, Dr. Mangiameli opined that appellant should not retain the right to possess firearms or other lethal weapons because, given his history of violence and paranoia, that would be "extremely dangerous."

At the close of testimony, the court ruled that appellant should not retain the rights to operate a motor vehicle, enter into contracts, and refuse treatment related to his grave disability, but that none of the other disabilities respondent sought to impose should be imposed.

DISCUSSION

A conservatorship may be established only if the trier of fact finds beyond a reasonable doubt that the proposed conservatee is "gravely disabled." (*Conservatorship of Early* (1983) 35 Cal.3d 244.) If, as here, that finding is made, the court is authorized to appoint a conservator and to determine the scope of his powers. (*Ibid*.)

Having conducted an independent review of the record as suggested by the dissent in *Conservatorship of Ben C., supra*, 40 Cal.4th at page 556 (dis. opn. of George, C.J.), we conclude that the rulings finding appellant gravely disabled and imposing specified disabilities are supported by substantial evidence.

Appellant was represented by competent counsel who protected his rights and interests, no evidence was received that should have been excluded, no evidence was excluded that should have been received, and the testimony of respondent's medical expert satisfies the county's burden.

Accordingly, the rulings of the superior court are affirmed.

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Kline, P.J.

We concur:

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Richman, J.

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Stewart, J.